

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA

v.

VINCENT KIEJZO

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Docket No. 20-cr-40036-TSH

**SUPPLEMENTAL MEMORANDUM TO DEFENDANT’S MOTION TO SUPPRESS
AND MOTION TO RECONSIDER DENIAL OF MOTION TO COMPEL**

EXHIBIT B:

Government’s Motion to Seal the Complaint,
United States v. Kidder, No. 1:21-cr-00118-LJV (W.D.N.Y. Mar. 16, 2020), ECF No. 7

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

20-mj-1010

BRANDON KIDDER,

Defendant.

GOVERNMENT'S MOTION TO SEAL THE COMPLAINT

THE UNITED STATES OF AMERICA, by and through its attorney, James P. Kennedy, Jr., United States Attorney for the Western District of New York, and the undersigned Assistant United States Attorney, respectfully moves this Court to seal the complaint and file a redacted criminal complaint in this matter as it contains information that could reveal highly-sensitive law enforcement methods.

DISCUSSION

On March 5, 2020, a criminal complaint was executed charging the defendant in the above-captioned matter. *See* Docket No. 1. The criminal complaint outlined the law enforcement methodology used to unearth defendant's criminal conduct. Mistakenly, the government included information about specific law enforcement methodology and separately, file names that offenders can then use as search terms to find images depicting particular victims. Pursuant to Criminal Procedure 49.1(d) and (f), the government hereby moves this Court to redact the criminal complaint as proposed in **Exhibit A**.

CONCLUSION

For the foregoing reasons, the government moves this Court to seal the originally docketed complaint and to allow the government to file a redacted criminal complaint in this matter.

DATED: Buffalo, New York, March 16, 2020.

Respectfully submitted,

JAMES P. KENNEDY, JR.
United States Attorney

S/ CAITLIN M. HIGGINS

BY:

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United States District Court

for the
Western District of New York

United States of America

v.

Case No. 20-mj- 100

Brandon Kidder

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of May 24, 2019, in the County of Erie, in the Western District of New York, the defendant did possess and receive child pornography, in violation of Title 18, United States Code, Sections 2252A(a)(5)(B), 2252A(b)(2), and 2252A(a)(2)(A).

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.


Complainant's signature

RANDALL E. GARVER
SPECIAL AGENT
FEDERAL BUREAU OF INVESTIGATION
Printed name and title

Sworn to before me and signed in my presence.

Date: March 5, 2020


Judge's signature

City and State: Buffalo, New York

HONORABLE JEREMIAH J. MCCARTHY
UNITED STATES MAGISTRATE JUDGE
Printed name and title

AFFIDAVIT IN SUPPORT OF COMPLAINT

STATE OF NEW YORK)
) ss:
COUNTY OF ERIE)

I, Randall E. Garver, being duly sworn, depose and say:

1. I am a Special Agent of the Federal Bureau of Investigation and entered on duty in May 2006. I am currently assigned to the Buffalo Field Office and work on cases associated with the Violent Crimes Against Children program, which targets individuals involved in the online sexual exploitation of children. As part of these duties, I have investigated suspected violations of Title 18, United States Code, Sections 2251, 2252, 2252A, 2422, and 2423. I have also participated in various FBI mandated and volunteer training for the investigation and enforcement of federal child pornography laws in which computers are used as the means for receiving, transmitting, and storing child pornography.

2. I make this affidavit in support of a criminal complaint charging BRANDON KIDDER ("Kidder") with a violation of Title 18 U.S.C. Sections 2252A(a)(5)(B), 2252A(b)(2) [Possession of Child Pornography] and 2252A(a)(2)(A) [Receipt of Child Pornography].

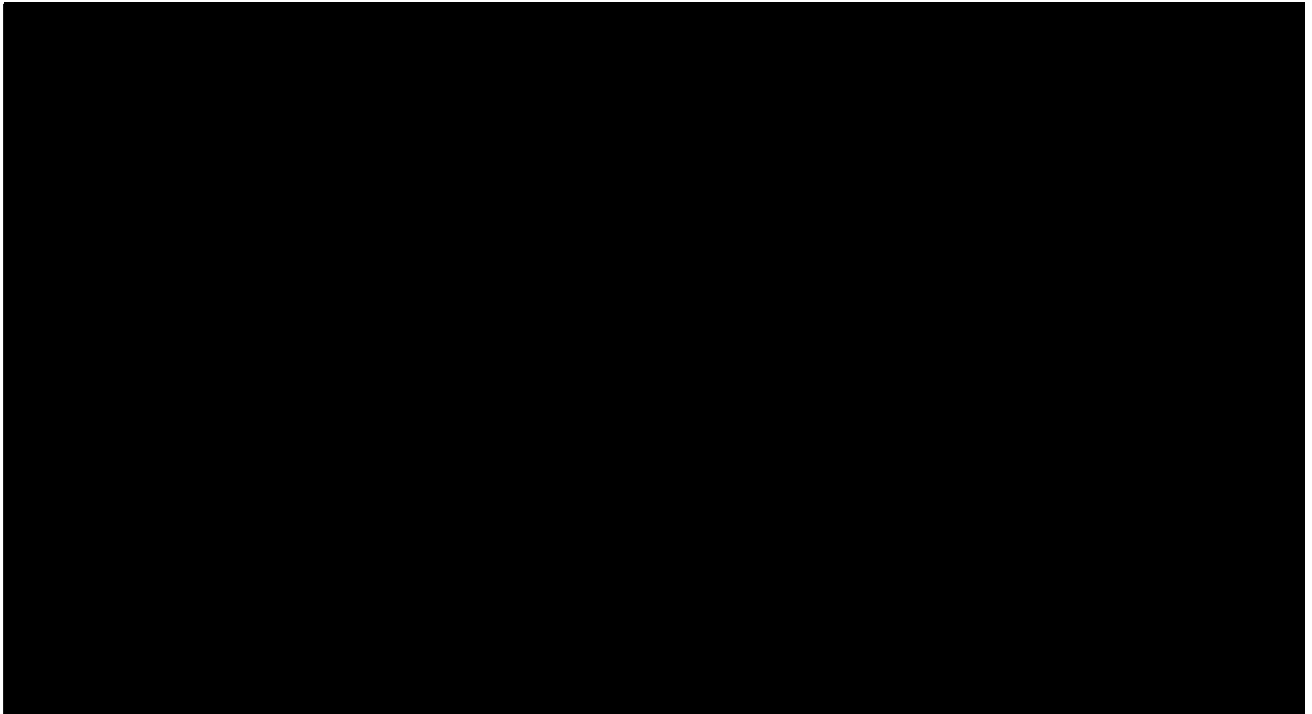
3. The statements contained in this affidavit are based on (1) my involvement in this investigation, as well as (2) information provided to me by (a) other law enforcement officers involved in this investigation and (b) other personnel involved in this investigation who are specially trained in the seizure and analysis of computers and electronic media, and (3) my training and experience. Because this affidavit is being submitted for the limited

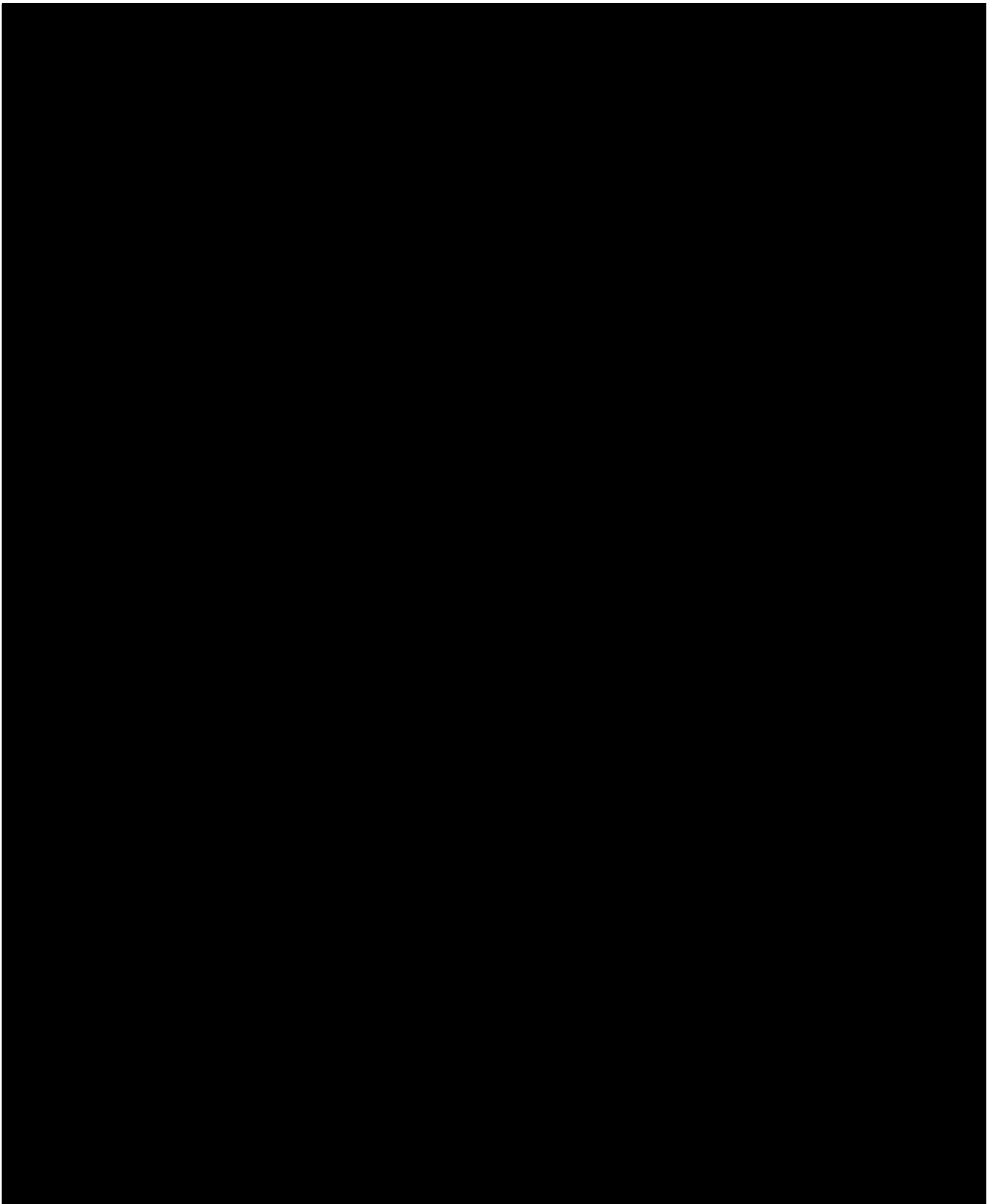
purpose of seeking a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that KIDDER violated Title 18, United States Code, Sections 2252A(a)(5)(B), 2252A(b)(2), and 2252A(a)(2)(A).

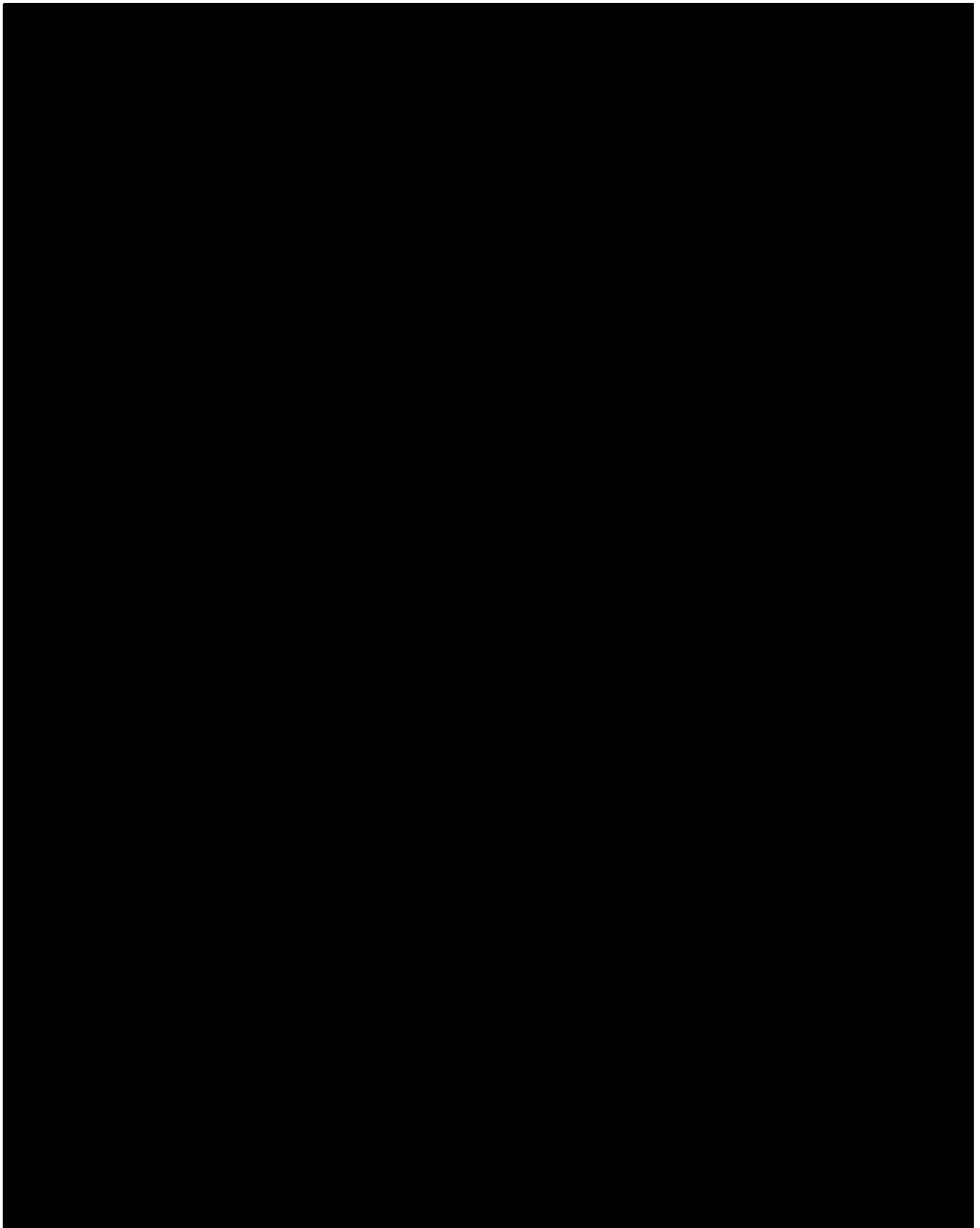
4. The Tor network is a computer network available to Internet users that is designed specifically to facilitate anonymous communication over the Internet. The Tor network attempts to do this by routing Tor user communications through a globally distributed network of intermediary computers, or relays, along a randomly assigned path known as a “circuit.” Because of the way the Tor network routes communications through the relay computers, traditional IP address-based identification techniques are not effective. To access the Tor network, a user must install Tor software. That is most easily done by downloading the free “Tor browser” from the Tor Project, the private entity that maintains the Tor network, via their website at www.torproject.org. The Tor browser is a web browser that is configured to route a user’s Internet traffic through the Tor network. The Tor Network also makes it possible for users to operate websites, such as those described herein, called “hidden services” or “onion services,” in a manner that attempts to conceal the true IP address of the computer hosting the website. Hidden service websites are accessible only to users operating within the Tor network. Like other websites, hidden services are hosted on computer servers that communicate through IP addresses. However, hidden services have unique technical features that attempt to conceal the computer server’s location. Unlike standard Internet websites, a Tor-based web address is comprised of a series of at least 16 and

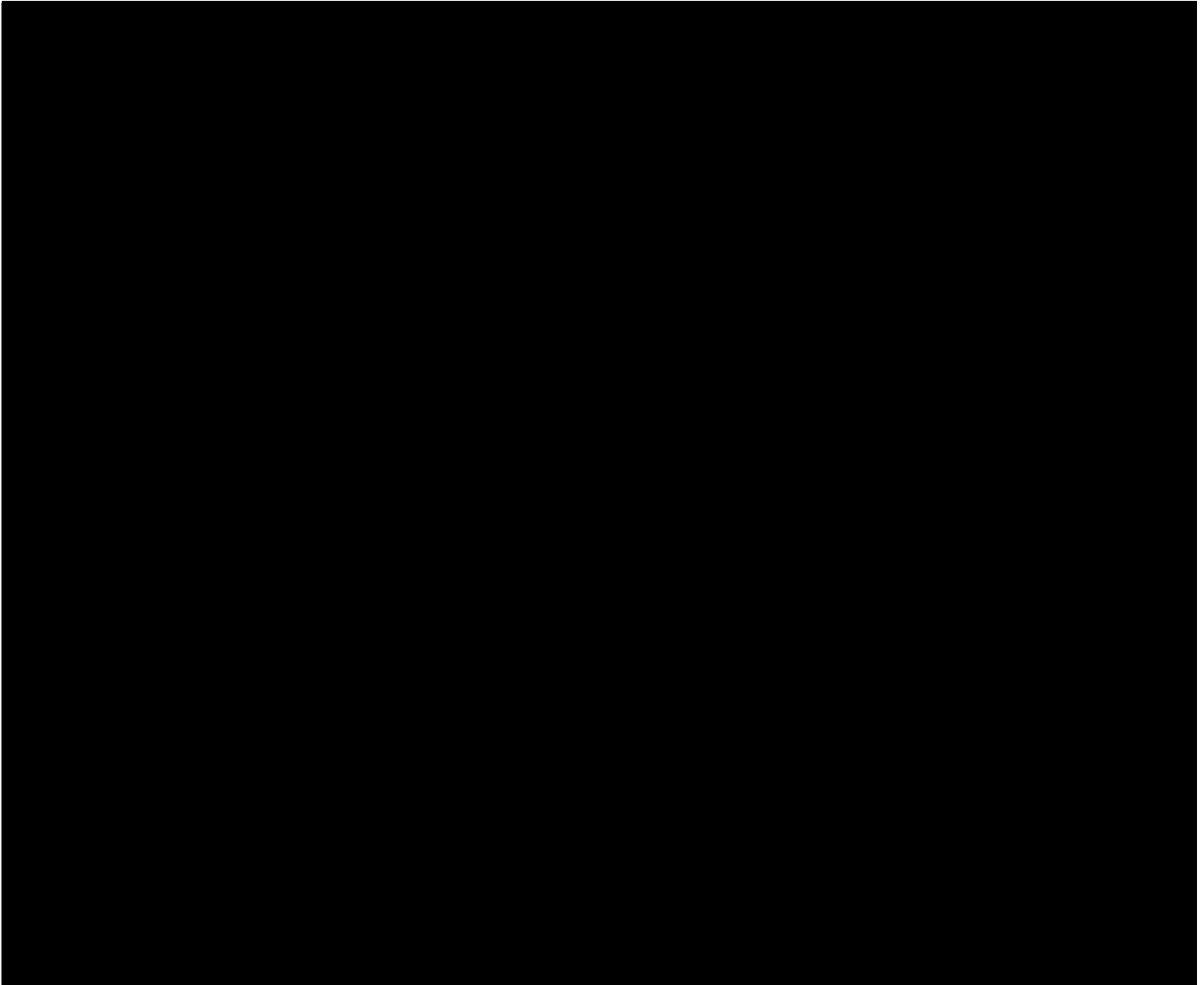
¹ Tor users may also choose to manually configure a web browser or other application to route communications through the Tor network.

as many as 56 algorithm-generated characters, for example “asdlk8fs9dfiku7f,” followed by the suffix “.onion.” Ordinarily, investigators can determine the IP address of the computer server hosting a website (such as www.justice.gov) by simply looking it up on a publicly available Domain Name System (“DNS”) listing. Unlike ordinary Internet websites, however, there is no publicly available DNS listing through which one can query the IP address of a computer server that hosts a Tor hidden service. So, while law enforcement agents can often view and access hidden services that are facilitating illegal activity, they cannot determine the IP address of a Tor hidden service computer server via public lookups. Additionally, as with all Tor communications, communications between users’ computers and a Tor hidden service webserver are routed through a series of intermediary computers. Accordingly, neither law enforcement nor hidden-service users can use public lookups or ordinary investigative means to determine the true IP address – and therefore the location – of a computer server that hosts a hidden service.









PROBABLE CAUSE

6. On January 2, 2020, I opened an investigation into address 1321 Sandridge Road, Apartment Right, Alden, New York 14004. [REDACTED]

[REDACTED]

[REDACTED]

The information I received showed that a user of the internet service at 1321 Sandridge Road, Apartment Right, Alden, New York 14004 [REDACTED]

[REDACTED]

[REDACTED] The IP address was 98.3.34.197 and, according to publicly available information, was owned/operated by Charter Communications.

8. On or about September 10, 2019, an administrative subpoena was issued to Charter Communications for information related to IP address 98.3.34.197 on May 24, 2019 at 00:31:58 UTC. In response to the subpoena, officials at Charter Communications provided the following subscriber information: Jeremy Kidder, 1321 Sandridge Road, Apt Right, Alden, New York 14004-9687.

9. The investigation determined there were several residents at 1321 Sandridge Road, Apartment Right, Alden, New York 14004, including BRANDON KIDDER. Using the information detailed herein, on January 24, 2020, US Magistrate Judge Michael J. Roemer signed a warrant authorizing a search of 1321 Sandridge Road, Apartment Right, Alden, New York 14004.

10. On January 28, 2020, the FBI executed the search warrant. During the execution, my colleague and I interviewed KIDDER who told us that for the past few years he had been “messing around on the dark net.” KIDDER said he downloaded the Tor

software to his computer and a phone and used Tor to, among other things, download child pornography. ██████████ said he last downloaded a large file containing child pornography from Tor about a week before the warrant's execution. KIDDER said he obtains the child pornography out of curiosity but also masturbates to it. At the conclusion of the interview, KIDDER signed a statement of fact regarding what was discussed herein.

11. Pursuant to the warrant, the FBI seized two Samsung smartphones, a Thermaltake desktop computer, a Dell laptop computer, an Attache thumb drive, and a PNY thumb drive. Both the desktop and laptop computers were submitted to the Western New York Regional Computer Forensics Laboratory (RCFL) for a full forensic exam. Both Samsung phones and the thumb drives were searched at the Child Exploitation Task Force office. Below I will summarize a few of the relevant findings, thus far:

Device: Samsung Galaxy S7 Edge, model SM-G953V, IMEI 355300073359650

File Name	Associated Date	Description
██████.mp4	07/28/2019	A video, 1:11 in duration that shows a baby, in my opinion approximately six months to one year old, sitting nude on top of a naked adult male facing away from the camera. The adult rubbed his erect penis against the baby's anus and struggled to penetrate it; he then placed his right thumb into the anus while holding his penis. The man then penetrated the baby's anus with his penis and feces was released onto the penis. The man ejaculated; throughout the video the baby was screaming.
1██████.jpg	04/03/2013	An image showing an adult male laying on his back showing his erect penis with a toddler, in my opinion approximately the age of 2, sitting nude with her vagina on top of his penis (not penetrating the vagina). The toddler has a condom in her hands and there was what

		appeared to be semen on the toddler's torso. The toddler's face is cut out of the picture frame (only her chin and mouth were visible in the image)
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Device: Samsung Galaxy 8 Note, IMEI 358071081254905:

File Name	Associated Date	Description
██████████.jpg	09/20/2019	An image that was a close up of a female baby, in my opinion approximately one year old, who was facing away from the camera. A penis was inserted into the girl's anus and an adult's hand was holding her labia open exposing her vagina
██████████.jpg	11/30/2019	An image of a girl, in my opinion approximately the age of six, sitting on the floor wearing a blue shirt and no pants. The girl's legs are spread, exposing her vagina.


Device: Attach thumb drive with no visible serial number:

File Name	Associated Date	Description
██████████.pg	07/22/2008	An image of a newborn baby, whose gender cannot be ascertained in this particular image, with an erect penis in the baby's mouth. A pink blanket is visible in the background. The eyes and top of the baby's head are not visible in the frame (nor is the rest of the body).
██████████.jpg	07/06/2008	An image of the same newborn baby, based on appearance of the child and the pink blanket, that shows the baby is a female wearing only red socks. The baby's vagina is exposed and there appears to be semen on the girl's vagina and torso. The baby's anus is red in the picture.
3 ██████████.jpg	07/22/2008	An image of the same newborn baby, based on appearance of the child and the pink blanket, that shows the baby crying and semen on her body. From viewing the image, it appears the baby's umbilical cord

		stump recently fell off; this indicates the baby is only one to two weeks old.
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CONCLUSION

12. Based on the foregoing, there is probable cause to believe that KIDDER is in violation of Title 18, United States Code, Sections 2252A(a)(5)(B), 2252A(b)(2), and 2252A(a)(2)(A).


 Randall E. Garver, Special Agent
 Federal Bureau of Investigation

Sworn and subscribed to before me
 On this 5TH day of March 2020.


 HON. JEREMIAH J. MCCARTHY
 U.S. MAGISTRATE JUDGE